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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,531	09/26/2001	Ramesh Pendakur	1020.P11545	3771
57035	7590	10/26/2006	EXAMINER	
KACVINSKY LLC C/O INTELLEVATES P.O. BOX 52050 MINNEAPOLIS, MN 55402			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/965,531

Applicant(s)

PENDAKUR, RAMESH

Examiner

Son P. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/10/2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-14, 18-20 have been considered but are not persuasive.

Applicant argues Schaeffer and Ellis neither teach, nor suggest the new added limitation "notification requests being transmitted across links" (page 8, paragraphs 3-4).

In response, this argument is respectfully traversed. The claims recite "transmitting a notification request to a notification system across a link,..." Schaeffer discloses the information alert can be sent to the pager or cellular phone directly from the head end or via the set top box 152 as desired by the user (paragraphs 0051-0054).

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The "link" is interpreted as link/path between the head end/set top box and the pager/cellular phone. Therefore, the limitation transmitting a notification request to a notification system across a link," is interpreted as transmitting information alert to a pager or cellular phone across a link/path between the head end/set top box and the pager or cellular.

For the reasons given above, rejections on claims 1-14, 18-20 are analyzed as discussed below.

Claims 15-17 have been canceled.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 5-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 5-7 recites "a machine-readable medium having stored thereon data representing sequences of instructions that **when executed** cause a machine to".

MPEP 2106 [R-3], IV, B, 1(a) clearly stated that "computer readable medium encoded with a computer program...is thus statutory". The claimed "machine-readable

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medium” is not necessarily computer readable medium, the data is not necessarily computer program, and “when executed cause...” does not necessarily define structural and functional interrelationship between the data and the machine data’s functionality. Thus, there is no functional, structural and functional **interrelationship** between the data and machine data’s functionality to permit the data’s functionality to be realized, thus, is not statutory.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-13, 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Schaefer et al. (US 2002/0124252).

Regarding claim 1, Schaefer discloses a method comprising:

accessing content descriptive data corresponding to content operable to be transmitted to a reception system associated with a user (read on processing information event (title, channel, descriptive information) corresponding to event (i.e.

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football game, a movie, etc.) to be transmitted to a receiving apparatus (e.g., 152,154,162,158) associated with a user – figure 2, paragraphs 0015-0016);

accessing preference data that describes a content preference of the user and a notification preference of the user (read on processing user profile with preferences that describes types of information that is interest to a user and preference of alert information such as only alert at certain time, certain program, certain channel, certain type of alert such as “parental control” alert, news alert, sport alert, etc. - figure 7, paragraphs 0015-0019,0029, 0043-0048);

determining to notify the user by comparing the content descriptive data with the preference data and determining that the content descriptive data matches the preference data (read on determining to alert the user by comparing information event (e.g. title, channel, descriptive information, etc.) correspond to event with information in the user profile and determining the matches of the data to alert only certain information items to user according with user profile to the user – see include, but not limited to, figure 7, paragraphs 0015-019, 0021, 0062-0065);

enabling notification of the user by transmitting a notification request to a notification system across a link, the notification system designated by the notification preference of the user (enabling/displaying visual notification (such as an icon or scrolling “news ticket”) and/or audio cue to the user about the “parental control” alert, news alert, sports alert, etc. by transmitting a visual request and/or a cue across a link between the head end and/or set top box to cellular telephone or pager as desire by the user for displaying/notifying in according with the notification preference such as certain

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time, certain program, certain channel, etc. configured by the user in the user profile.— see including, but are not limited to, paragraphs 0015-0021, 0028, 0043-0048, 0051, 0054, 0064-0066, 0069).

Regarding claim 2, Schaefer further discloses accessing content descriptive data corresponding to digital multimedia entertainment content selected for transmission to the reception system and operable to be transmitted over a broadcast channel to the reception system which comprises a memory to store the content (accessing program information/event information corresponding to programs/events selected for transmission to the reception system (i.e. set top box, pager, cellular phone, etc.), the program information/event information and programs/events are transmitted to set top box, pager, cellular phone, etc. over a broadcast channel; the reception system comprises a memory to store the program/event – figures 1-3, paragraphs 0015, 0021, 0027, 0051, 0052).

Regarding claim 3, Schaefer further discloses generating a notification request (information alert, visual information (icon or “news ticker”) and/or audio cue) by using at least a portion of the content descriptive data (i.e. name of event/program, type of channel, etc.) – paragraphs 0015-19, 0028);

transmitting the notification request by using a predetermined stored address corresponding to the notification system (transmitting information alert to predetermined

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device address, i.e. addresses of pager, telephone, etc. so that only subscribers receives information alerts – paragraphs 0016-0019, 0032).

Regarding claim 4, Schaefer further discloses transmitting a notification request (information alert, visual information (icon or “news ticker”) and/or audio cue) operable to cause a notification from the notification system selected from the group consisting of a pager, and a phone (transmitting information alert to cause an alert from the notification system selected from the group consisting of a pager, cellular phone – paragraphs 0015-0021, 0047).

Regarding claims 5 and 7, the limitations of the claimed machine-readable medium corresponding to the limitations of the method as claimed in claims 1 and 3 respectively. Schaefer further discloses the functions are performed by machine-readable instructions, software, code and the like that is stored in one or more machine-readable media (paragraph 0061). Therefore, the limitations as claimed are analyzed as discussed with respect to the rejection of claims 1 and 3.

Regarding claim 6, Schaefer further discloses instructions causing the machine to transmit the notification request (information alert, visual information (icon or “news ticker”) and/or audio cue) to a notification system selected from the group consisting of a personal computer, a laptop, a person digital assistant, and an email account (paragraphs 0015-0016, 0039-0042).



Regarding claims 8-10, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 1, 4, 3 respectively, and are analyzed as discussed with respect to the rejection of claims 1, 4, 3. Furthermore, since the information alert is only provided and displayed for only certain program name/event, channel, time, etc. according to preference data configured in user profile (paragraphs 0015-0021), the notification request is inherently issued if the content descriptive data matches the profile.

Regarding claim 11, Schaefer further discloses the digital content includes digital content having a type that is selected from the group consisting of music, software, and video game (movie, commercial, music video, computer games, etc. paragraphs 0015, 0038, 0042, 0048).

Regarding claim 12, Schaefer further discloses the profile (either stored in set top box or headend, or remote control unit) is coupled with the user via a communication link and operable to be modified by the user (figure 2, paragraphs 0027, 0045, 0048, 0049).

Regarding claim 13, Schaefer further discloses preference data (user profile information) was obtained by observing and recording content consumption by the user (user profile was accumulated as the user participates in or uses the interactive video castings system. For example, user purchases items – paragraph 0049).

Regarding claim 18, Schaefer discloses a system comprising:

a receiver (interpreted as receiver of provider, or receiver coupled to set top box, etc.) to receive broadcast content (i.e. program 402) and content descriptive data (program information) – figures 1, 2, paragraphs 0015, 0023, 0042);

a notification requesting system coupled to the receiver (interpreted as interface to the receiver, memory that store user profiles, processor that coupled to the set top box) and comprising a predetermined notification system address corresponding to a notification system to receive the content descriptive data and transmit across a link a notification request addressed to the notification system, the notification request comprising the content descriptive data (since the information alert/program is sent to particular device such as television display device, cellular telephone, pager, etc.– paragraphs 0015-0021, 0032, the device address is inherently comprised in the notification requesting system so that the notification system sends the information alert to the particular subscriber or device such as television display device, cellular telephone, pager, etc. based on information configured in user profile by the user. The notification requesting system transmit across a link (e.g. link/path between the head end/set top box and the pager or cellular phone) information alert and sends information alert comprises information of the event to predetermined devices i.e. pager, cellular phone, paragraphs 0015, 0032, 0039-0047, 0053); and

a transmitter (i.e. at the provider or at the set top box that interface to the pager, cellular phone, etc. – figure 2) coupled with the notification requesting system to receive

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the addressed notification request and to transmit the request to the notification system (receive and transmit information alert to addressed devices such as pager, cellular phone, television display device, etc. according to preference data configured by the user in user profile – paragraphs 0015-0021, 0039-0047, figure 2).

Regarding claim 19, Schaefer further discloses the notification system is a mobile notification system (i.e. pager, cellular phone, PDA – paragraphs 0039-0047). Schaefer further discloses the information alert/data is transmitted to a particular devices i.e. particular pager, only subscribers, etc. – paragraphs 0015-0021, 0032, 0053). Inherently, the notification requesting system comprises an address of the mobile notification system.

Regarding claim 20, Schaefer further discloses the system further comprises:

- a cache to stored received content (paragraphs 0027, 0038, 0052);
- a profiling system to modify a user profile by storing content descriptive data for content that the user consumes (paragraphs 0045, 0048-0049).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaefer et al. as applied to claim 8 above, and in view of Ellis et al. (US 2004/0117831).

Regarding claim 14, Schaefer teaches a system as discussed in the rejection of claim 8. Schaefer further discloses the notification requesting system is a notification system to generate a first request at a first time prior to transmission of the content to the user to enable the notification system to notify the user of content before it is transmitted (transmitting request for information alert of the content before the content is transmitted – paragraphs 0016-0019). Schaefer also discloses a second request at a second time subsequent time (select to record/store the program in response to the alert information paragraphs 0051, 0052). However, Schaefer does not specifically disclose the after transmission of the content to the user, the notification system notify the user of content after it has been transmitted.

Ellis discloses when the recording is complete, the program guide may notify user that the program has been recorded and is available for viewing (paragraph 0149) broadly reads on request at a time after transmission of the content to the user, the notification system notify the user the content after it has been transmitted. Therefore, it would have

been obvious to one of ordinary skill in the art at the time the invention was made to modify Schaefer to use the teaching as taught by Ellis in order to notify the user of the complete recorded and available content, thereby improve convenience to user.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Errico et al. (US 7,055,168) discloses method for interpreting and executing user preferences of audiovisual information.

Harries et al. (US 7,114,170) discloses method and apparatus for providing interactive media presentation.

Sezan et al. (US 6,236,395) discloses audiovisual information management system.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

October 23, 2006

A handwritten signature in black ink, appearing to read 'Son P. Huynh', with a long horizontal stroke extending to the right.